

AMENDED IN SENATE JUNE 4, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 3342

Introduced by Assembly Member Knowles

February 23, 1996

An act to add Sections 10238.8 and 10239.36 to, to repeal Sections 10238.3, 10238.4, 10238.45, and 10238.5 of, and to repeal Article 6 (commencing with Section ~~10237~~ 10237) and Article 6.5 (commencing with Section 10239) of Chapter 3 of Part 1 of Division 4 of, the Business and Professions Code, *and to add Section 25707 to the Corporations Code*, relating to real property securities dealers.

LEGISLATIVE COUNSEL'S DIGEST

AB 3342, as amended, Knowles. Real property securities dealers.

Existing law provides for regulation of real property securities dealers by the Commissioner of Real Estate. A person acting as a real property securities dealer must be licensed as a real estate broker, and a permit from the commissioner is required before real property security may be sold by the issuer or real property securities dealer to the public. Existing law also provides for conservatorship and liquidation proceedings, as specified, with respect to real property securities dealers.

This bill would repeal the provisions requiring a permit from the commissioner before real property security may be sold, and would provide that no conservatorship or liquidation

proceeding shall be commenced on or after the effective date of this act.

The bill would also provide for the repeal of other existing provisions regulating real property securities dealers upon notification by the commissioner to the Secretary of State that the last pending conservatorship or liquidation proceeding commenced prior to the effective date of this act has been terminated.

The bill would provide that certain permits, orders, and conditions issued or imposed under these provisions prior to repeal shall remain in effect, as specified. Following the repeal, the permits, orders, and conditions would be deemed to have been imposed under the Corporate Securities Law of 1968. The bill would enact other transition provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 10238.3 of the Business and
- 2 Professions Code is repealed.
- 3 SEC. 2. Section 10238.4 of the Business and
- 4 Professions Code is repealed.
- 5 SEC. 3. Section 10238.45 of the Business and
- 6 Professions Code is repealed.
- 7 SEC. 4. Section 10238.5 of the Business and
- 8 Professions Code is repealed.
- 9 SEC. 5. Section 10238.8 is added to Article 6
- 10 (commencing with Section 10237) of Chapter 3 of Part 1
- 11 of Division 4 of the Business and Professions Code, to read:
- 12 10238.8. (a) This article shall remain operative as
- 13 long as a conservatorship or liquidation proceeding
- 14 pursuant to Article 6.5 (commencing with Section 10239)
- 15 of Chapter 3 of Division 4, that was commenced prior to
- 16 the effective date of the act enacting this section, remains
- 17 active.
- 18 (b) Notwithstanding any other provision of this
- 19 article, no conservatorship or liquidation proceeding shall
- 20 be commenced on or after the effective date of the act
- 21 enacting this section.



(c) The commissioner shall determine when the last pending proceeding described in subdivision (a) is terminated. The commissioner shall submit a notice of that determination to the Secretary of State, and this article shall be repealed upon the receipt of that notice by the Secretary of State.

SEC. 6. Section 10239.36 is added to Article 6.5 (commencing with Section 10239) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, to read:

10239.36. (a) This article shall remain operative as long as a conservatorship or liquidation proceeding pursuant to Article 6.5 (commencing with Section 10239) of Chapter 3 of Division 4, that was commenced prior to the effective date of the act enacting this section, remains active.

(b) Notwithstanding any other provision of this article, no conservatorship or liquidation proceeding shall be commenced on or after the effective date of the act enacting this section.

(c) The commissioner shall determine when the last pending proceeding described in subdivision (a) is terminated. The commissioner shall submit a notice of that determination to the Secretary of State, and this article shall be repealed upon the receipt of that notice by the Secretary of State.

SEC. 7. Section 25707 is added to the Corporations Code, to read:

25707. (a) All permits and orders issued under Article 6 (commencing with Section 10237) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, and all conditions imposed pursuant to those provisions, shall remain in effect for the period of time that they would have remained in effect if those provisions had not been repealed by the act enacting this section. Following the repeal of those provisions, the permits, orders, and conditions shall be deemed to have been issued or imposed under this division. An application to amend, extend, modify, revoke, or set aside a permit or order shall be filed under this division and is subject to this division.

1 (b) An application pending under Article 6
2 (commencing with Section 10237) of Chapter 3 of Part 1
3 of Division 4 of the Business and Professions Code, on the
4 effective date of this section, shall be processed by the
5 Real Estate Commissioner subject to those provisions as
6 they were in effect on December 31, 1996, until each
7 application that was pending on the effective date of this
8 section is granted or denied by the Real Estate
9 Commissioner.

10 (c) Except as expressly provided by this section, all
11 actions, prosecutions, or proceedings under Article 6
12 (commencing with Section 10237) of Chapter 3 of Part 1
13 of Division 4 of the Business and Professions Code that are
14 pending prior to the effective date of this section, or that
15 otherwise could be initiated based on facts or
16 circumstances occurring prior to the effective date of this
17 section, shall be governed by those provisions.

18 (d) No civil action may be brought to enforce any
19 liability under Article 6 (commencing with Section
20 10237) of Chapter 3 of Part 1 of Division 4 of the Business
21 and Professions Code, unless it is brought within the
22 period of limitations that applied to the action at the time
23 the action accrued.

24 (e) Judicial review of orders under Article 6
25 (commencing with Section 10237) of Chapter 3 of Part 1
26 of Division 4 of the Business and Professions Code that
27 had not commenced prior to the effective date of this
28 section shall be governed by Section 25609, except that no
29 review proceeding shall be commenced unless the
30 petition is filed within the applicable period of limitations
31 that applied to a review proceeding when the order was
32 issued. Judicial review of an order of the Real Estate
33 Commissioner made pursuant to subdivision (b) shall be
34 governed by the provisions of law applicable to those
35 proceedings on December 31, 1996.

